

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

10209-00007CIP (10209-19)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or printed name _____

Application Number

10805038

Filed

2004-03-19

First Named Inventor

Eugene August Fusz

Art Unit

3623

Examiner

Boyce, Andre D.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 45112

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____


Signature

Robert E. Slenker

Typed or printed name

314-621-5070

Telephone number

2010-06-28

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Eugene August Fusz	:	
	:	Art Unit: 3623
Serial No.: 10/805,038	:	
	:	Examiner: Boyce, Andre D.
Filed: March 19, 2004	:	
	:	
For: METHODS AND APPARATUS FOR	:	
ANONYMOUS DATA PROFILING	:	
Mail Stop: Appeal	:	
Commissioner for Patents	:	
P.O. Box 1450	:	
Alexandria, VA 22313-1450	:	

PRE-APPEAL STATEMENT

Sir:

In response to the Final Office Action dated May 24, 2010, the present Pre-Appeal Statement is being submitted concurrently with the filing of a Notice of Appeal under 37 C.F.R. §41.31 and the required fee under 37 C.F.R. §41.20(b)(1). It is respectfully requested that the final rejections of the pending claims be reviewed and reversed and that the application be allowed to issue.

BRIEF OVERVIEW OF CLAIMED SUBJECT MATTER

The present disclosure relates to systems and methods associated with a profiling system where users remain completely anonymous since there is an inability to enter identifying information into a user interface. Simply put, anonymity is preserved, because identifying information cannot be entered, and accordingly is never entered, and thus cannot be stored in a database. Such a system and method is distinct from the prior art and the cited references, at least in part, as those systems rely on software security mechanisms to prevent access to the identifying information that is stored separately from the profile information in a database. As is well known, such security mechanisms can be overcome, potentially allowing access to the identifying information intended to remain secure. In summary, the currently pending claims address the inability of software security mechanisms to be absolute through utilization of a questionnaire that includes only questions having answers that only include non-identifying information concerning the consumer as well as accepting answers via a user interface that is

configured such that only answers containing non-identifying information may be entered into the user interface.

For example, Claim 12 recites a method for generating a database of personalized anonymous consumer profiles. The method includes “providing a questionnaire to a consumer, the questionnaire accessible utilizing a computer communicatively coupled to a server that includes a database for storing the questionnaire, the questionnaire including only questions having a nature such that answers to the questions include only non-identifying information concerning the consumer”, “accepting answers to the questionnaire at the server from the computer, the answers entered via a user interface displayed by the computer, the user interface configured such that only answers containing non-identifying information may be entered into the user interface”, “configuring the received answers as a consumer profile database, stored in the server database”, “providing advertisements to the consumer, via the computer user interface, based on data within the consumer profile database”, “receiving feedback on the advertisements, at the server” and “updating the consumer profile database based on the received feedback”.

REJECTIONS UNDER 35 U.S.C. §102(e) and §103(a)

In the Office Action dated May 24, 2010, Claims 12-21 and 23-33 are rejected under 35 U.S.C. § 102 as being anticipated by Goldhaber et al. (U.S. Patent No. 5,855,008) and Claim 22 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Goldhaber et al. in view of Kepecs (U.S. Patent No. 6,009,411).

Applicant respectfully submits that the May 24, 2010 final Office Action incorrectly interprets the Goldhaber et al. reference. Goldhaber et al. describe a system for distributing advertising over the internet. In this system, a user creates an account using personal contact information which is stored on a database. The user then creates an interest profile that is linked to the personal contact information stored on the same database. Advertisements are then sent to the user based on the user’s interest profile. The advertisements allow the user an option to sell their personal information to the advertiser based on the user’s approval. Upon a user’s approval to sell personal information, the system sends the advertiser the user’s personal contact information linked to the interest profile.

The final Office Action refers to Column 13, lines 30-40, which generally describes the storage of contact information as being separate from the personal profile, and introduces that the personal profile is built up using a “profile questionnaire”. Lines 42-43 indicate that a user can make their profile available while keeping their name and address secret. Again, Goldhaber et al. illustrate the deficiencies solved by the present invention since it is impossible to absolutely maintain secrecy between two sets of information in a database. The present invention provides completely anonymous profiles based on not requesting personal (identifying) information.

Figure 7 of Goldhaber et al. is illustrative as it depicts the personal (contact) information of a system user as being in one part of a database and the interest profile information of the system user as being stored in a separate part of the database. Figure 7 of Goldhaber et al. inadvertently illustrates both the problems associated with such a system and the novelty of the pending claims. More particularly, separation of the contact information from the profile information is only effective as long as the software security mechanism in place for maintaining the separation is not compromised. The invention defined by the currently pending claims solves this problem by allowing profiles to be built up by the answering of questions that can only be answered with non-identifying information and by allowing only non-identifying information to be entered into the user interface. Personal information is non-existent and therefore can never be compromised.

An additional benefit is accrued in that due to the lack of identifying information, it is believed that users will be less inhibited in answering questions that may be utilized in building up their personal profiles. Vendors will come to realize that no contact information is needed as their concern is simply to get their messages to the consumer, and will further realize that more consumers will be willing to “listen” to their message if the consumers can remain completely anonymous.

Goldhaber et al. do not describe or suggest a method that includes providing a questionnaire to a consumer ... including only questions having a nature such that answers to the questions include only non-identifying information concerning the consumer, nor a method that includes accepting answers to the questionnaire ... via a user interface ... configured such that only answers containing non-identifying information may be entered into the user interface as is

recited in presently pending Claim 12. Therefore, Claim 12 and the claims that depend therefrom are patentable over Goldhaber et al.

Independent Claim 25 is also rejected as being anticipated by Goldhaber et al. Claim 25 includes recitations similar to the recitations of Claim 12 and thus is submitted to be patentable over the cited reference for the same reasons as Claim 12. In addition, Claims 26-33 depend from Claim 25 and thus are submitted to be patentable over Goldhaber et al.

Certain dependent claims of the pending application should be addressed. For example, Claim 13 includes recitations similar to Claim 12 where updated questions, in response to answers previously received, also have a nature such that answers to the updated questions include only non-identifying information.

Claim 15 recites that “compensating the consumer comprises instructing the consumer to access a randomly generated website to download the compensation”. The final Office Action references Column 11, lines 11-19 of Goldhaber et al. which describes that a “CyberCoin” displayed on a user’s computer represents (encodes) a network address of an information provider. In context, the information provider caused the CyberCoin to be displayed and therefore provided the user with a link to a network address. Nothing in this passage of Goldhaber et al. would be indicative of a randomly generated website. As such Claim 15 is submitted to be patentable over Goldhaber et al.

Claim 22 recites that “accepting answers comprises providing an inability to accept identifying information”. Claim 22 is rejected under Section 103 as being unpatentable over Goldhaber et al. and Kepecs. Initially, Kepecs is related to the distribution and reconciling of promotions to consumers and has nothing to do with profiling of consumers.

At Column 2, lines 50-52, Kepecs describes that “no direct consumer identification is maintained in the consumer account to preserve anonymity of the consumer”. At Column 6, starting at line 51, Kepecs describes a KEY with no other identification data. Kepecs further indicates that the consumer is completely anonymous. While Kepecs uses phrases like “completely anonymous”, “no direct consumer identification”, and “preserve anonymity of the consumer”, the Kepecs system suffers from the same problems as Goldhaber et al. in that software security mechanisms are relied upon to preserve the anonymity. As such, the portions of Kepecs recited in the final Office Action are taken out of context. For example, Figure 3


illustrates a communicative coupling between the DAP computer 11 and the consumer's financial institution 24. At Column 5, lines 40-44, Kepecs explains that credits obtained may be placed into the consumer's account at their financial institution.

Kepecs describes the DAP computer 11 as maintain a KEY database of consumer accounts. At Column 6, line 4 Kepecs further explains that there are different levels of identification within the KEY database. Most telling, starting at Column 6, line 22, Kepecs states that the Key database may contain personal information, such as a SSN, driver license number, passport number, etc. In this regard, Kepecs is no different than Goldhaber. Though both aspire to protect personal information, both are dependent upon a software security mechanism to protect identifying information. The final Office Action uses the sentence at Column 6, lines 52-54 to reject Claim 22 while ignoring the very next sentence that describes non-anonymous bindings of the Key. As Kepecs describes that the Key database may contain personal information, Kepecs cannot possibly describe or suggest an inability to accept identifying information. As such Claim 22 is submitted to be patentable over Goldhaber et al. in view of Kepecs.

SUMMARY AND CONCLUSION

It is important to understand and distinguish between systems that generate consumer profiles while attempting to protect personal information and systems that generate consumer profile information without asking for, or allowing entry of, personal profile information. The embodiments described by the pending claims ensure that consumer profiles are completely anonymous by never allowing indentifying information to be entered into the system that is used to generate the consumer profiles. Thus, an improvement over prior art systems such as those of Goldhaber et al. and Kepecs is realized since such systems rely upon software security mechanisms to ensure anonymity. For the above-mentioned reasons, it is believed that pending Claims 12-33 are patentable over the cited art and such action is respectfully solicited.

Respectfully Submitted,


Robert E. Slenker, Registration No.: 45,112
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070